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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,777	03/18/2004	Morinobu Endo	S004-5240	8064
40627	7590	07/20/2007	EXAMINER	
ADAMS & WILKS			YUAN, DAH WEI D	
17 BATTERY PLACE				
SUITE 1231				
NEW YORK, NY 10004				
			ART UNIT	PAPER NUMBER
			1745	
			MAIL DATE	DELIVERY MODE
			07/20/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/803,777	<b>Applicant(s)</b> ENDO ET AL.	
	<b>Examiner</b> Dah-Wei D. Yuan	<b>Art Unit</b> 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-9 and 19-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**ELECTROCHEMICAL CELL AND PRODUCTION METHOD THEREFOR**

Examiner: Yuan

S.N. 10/803,777

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JULY 18, 2007

***Priority***

1. Acknowledgment is made of applicant's claim for foreign priority based on two applications filed in Japan on 4/11/03. It is noted, however, that applicant has not filed a certified copy of the 2003-107296 and 2003-107297 applications as required by 35 U.S.C. 119(b).

***Election/Restrictions***

2. Applicant's election of Species I-2, claims 10-18, in Paper filed May 25, 2007 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 1-9,19-21 are withdrawn from consideration.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 10-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamashita et al. (WO 02/058170). (see corresponding US 7,008,721 B2).

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With respect to claim 10, Yamashita et al. teach an electrochemical cell wherein the terminal lead is sealed by laminated films (6,10). The innermost layer of the laminate (23) is molten-bonded to enclose the lead element as shown in Figures 2 and 3, Column 7, Line 64 to Column 8, Line 10.

With respect to claim 11, Yamashita et al. teach the polyolefin resin layer (21) and the acid-modified polyolefin resin layer (23) are formed on the opposite surfaces of the base film (22), respectively by melt extrusion. See Column 7, Lines 13-34. It is noted that claim 11 is a product-by-process claim. "Even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F. 2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

With respect to claims 12,13, Yamashita et al. teach the laminated film (6) comprising an acid-modified polyolefin resin layer (23), a heat-resistant base layer (22) and a polyolefin resin layer (21). See Column 7, Lines 13-34.

With respect to claim 14, Yamashita et al. teach the laminated film (10) further comprising an acid-modified polyethylene resin layer (13). See Column 12, Lines 29-46.

With respect to claims 15,16, Yamashita et al. teach the surface of the terminal lead is treated by a chemical conversion treatment. See Column 8< lines 11-25.

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With respect to claim 17, Yamashita et al. teach the use of an acid-modified polypropylen resin as the innermost layer of the laminate. See Column 6, Lines 26-40.


With respect to claim 18, Yamashita et al. teach the use of an acid-modified polyethylene resin as the innermost layer of the laminate. See Column 6, Lines 26-40.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dah-Wei D. Yuan whose telephone number is (571) 272-1295. The examiner can normally be reached on Monday-Friday (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dah-Wei D. Yuan  
July 18, 2007

  
DAH-WEI YUAN  
PRIMARY EXAMINER